

IN RE: PETITION FOR SPECIAL HEARING &  
ZONING VARIANCE  
W/S Wesley Ave., 31' (+/-) SE  
from c/1 Shipley Rd.  
164 Wesley Avenue  
1st Election District  
1st Councilmanic District

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 92-140-SPHA

Richard Hanna, et ux  
Petitioners

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner as a Petition for Special Hearing and Petition for Zoning Variance filed by the property owners, Richard and Cynthia Hanna, for that property known as 164 Wesley Avenue. As to the Petition for Special Hearing, the Petitioners seek approval of an amendment of the Order in case No. 69-59-SPH, to permit the onsite care of 100 children on the subject property, which consists of .539 acres and is currently zoned D.R.5.5. As to the Petition for Zoning Variance, the Petitioners seek relief from Section 409.6A4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 0 parking spaces in lieu of the required 11 spaces. These requests are more specifically shown on Petitioners' Exhibit No. 1, the site plan of the property.

One of the Petitioners, Cynthia Hanna, appeared and testified. The Petitioners were represented by James D. O'Connor, Esquire. Also appearing on behalf of the Petition was Paul Lee, the Engineer who prepared the plat to accompany the Petitions. There were no Protestants.

Testimony presented at the hearing was that a special permit for use of the property as a day nursery was granted on June 8, 1953 under case No. 2063-5. This original Order was amended on October 9, 1968, under case No.

69-59-SPH, to permit the onsite care of 60 children. At those prior hearings, the number of parking spaces available was not an issue. At present, the Petitioners wish to expand their facility to serve up to 100 children and to legitimize the existing parking situation.

Mrs. Hanna testified that she and her husband acquired the site in 1988 and it has been used as a day care center for a number of years. The current hours of operation are 7:00 A.M. to 6:00 P.M., Monday through Friday. The number of employees on site, is established by State standards governing day care centers. Presently, there are 7 employees, including the Director of the operation. Mrs. Hanna further testified that only 2 of the 7 employees drive to work and that they park across the street at the old Catonsville Senior High School building. That building is no longer used as a school and is known as the Banneker Recreation Center.

Mrs. Hanna also testified as to the significant need for day care facilities of this type in Baltimore County. She indicated that the proposed expansion is to provide day care services for infant children up to 2 years of age. She testified that there is no infant care for children of this young age presently available in Baltimore County. This expansion will cause an increase in the number of employees required by the State by 4, so that a total of 11 will be employed on the site. Mrs. Hanna also testified that the peak hours for traffic generated by the site are between 7:00 A.M. and 9:00 A.M., when children are being dropped off, and from 4:30 P.M. to 6:00 P.M. when they are being picked up. She described the limited traffic on the street due to the fact that there are only 3 residences near this locale on Wesley Avenue. She also stated that she has not experienced any problems with her neighbors, either with the parking or with the current pick-up/drop-off scheme.

Mr. Lee also testified in support of the Petitions. He noted that any overflow parking could be handled by the large Banneker Community Center lot located immediately across the street. He also testified that the adjacent residences have their own driveways and that there is sufficient offsite parking to accommodate the increased number of employees. In his expert opinion, Mr. Lee testified that the requirements of Section 307.1 of the B.C.Z.R. were met in regards to the Petition for Variance.

As to the Petition for Special Hearing, I am persuaded that same should be granted. The unique character of this site lends itself well to the proposed use. In my view, an increase in the number of children to be cared for at the facility will not adversely impact the surrounding locale. Certainly, facilities of this type are in great demand and are in need throughout Baltimore County.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App.

28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 27<sup>th</sup> day of Dec., 1991, that the Petition for Special Hearing for approval to amend the Order in case No. 69-59-SPH to permit the onsite care of 100 children on the subject property be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Zoning Variance, a variance from Section 409.6A4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 0 parking spaces in lieu of the required 11 spaces, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible

-4-

for returning, said property to its original condition.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for  
Baltimore County

LES:mmm

111 West Chesapeake Avenue  
Towson, MD 21204

887-3353

November 26, 1991

James D. O'Connor, Esquire  
100 West Road  
Suite 211  
Towson, Maryland 21204

RE: Petition for Zoning Variance  
Richard Hanna, et ux, Petitioners  
Case No. 92-140-SPHA

Dear Mr. O'Connor:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,  
Lawrence E. Schmidt  
Zoning Commissioner

LES:mmm  
att.  
cc: Mr. and Mrs. Richard Hanna

## Petition for Special Hearing

to the Zoning Commissioner of Baltimore County **92-140-SPHA**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an amendment of the order in Case No. 69-59-SPH to permit care of 100 children on the subject property.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Legal Owner(s):

RICHARD HANNA  
(Type or Print Name)

Signature

Signature

CYNTHIA HANNA  
(Type or Print Name)

Signature

Signature

Address

City and State

Attorney for Petitioner:

JAMES D. O'CONNOR, Esquire  
(Type or Print Name)

Signature

100 West Road - Suite 211  
Address

Towson, Maryland 21204  
City and State

Attorney's Telephone No.: 321-0595

Address

Phone No.



OFFICE USE ONLY  
ESTIMATED LENGTH OF HEARING - 1/2HR. (+1HR.)  
AVAILABLE FOR HEARING  
MON./TUES./WED. - NEXT TWO MONTHS  
ALL OTHER  
REVIEWED BY: SAJ DATE 9/20/91

## Petition for Variance

to the Zoning Commissioner of Baltimore County **92-140-SPHA**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.6A4 of the Baltimore County Zoning Regulations to permit 0 parking spaces in lieu of required 11 parking spaces.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

a special permit for use of the property as a "Day Nursery" was granted on 6/8/53, Case No. 2063-5 and amended on 10/9/68, Case No. 69-59-SPH to permit care of 60 children. Parking spaces were not an issue at the previous hearings. Strict compliance with current parking requirements results in hardship or practical difficulty due to the history of the property and location of improvements thereon. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Legal Owner(s):

RICHARD HANNA  
(Type or Print Name)

Signature

Signature

CYNTHIA HANNA  
(Type or Print Name)

Signature

Signature

Address

City and State

Attorney for Petitioner:

JAMES D. O'CONNOR, Esquire  
(Type or Print Name)

Signature

100 West Road - Suite 211  
Address

Towson, Maryland 21204  
City and State

Attorney's Telephone No.: 321-0595

Address

Phone No.

OFFICE USE ONLY  
ESTIMATED LENGTH OF HEARING - 1/2HR. (+1HR.)  
AVAILABLE FOR HEARING  
MON./TUES./WED. - NEXT TWO MONTHS  
ALL OTHER  
REVIEWED BY: SAJ DATE 9/20/91

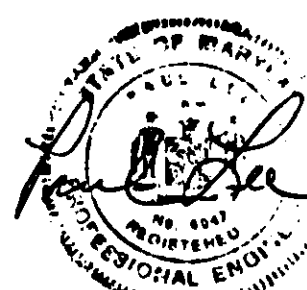
Paul Lee P.E.

Paul Lee Engineering Inc.  
304 W. Pennsylvania Ave.  
Towson, Maryland 21204  
301-521-5341

DESCRIPTION

164 WESLEY AVENUE  
FIRST ELECTION DISTRICT  
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point located on the west side of Wesley Avenue, said point also being located southeasterly 31 feet ± from the center of Shipley Road; thence binding on the west side of Wesley Avenue (1) S 34°30'00" E 150.00 feet, thence leaving said west side of Wesley Avenue, (2) S 55°30'00" W 155.10 feet, thence (3) N 35°38'00" W 150.03 feet, and (4) N 55°30'00" E 158.10 feet to the west side of Wesley Avenue and point of beginning.  
Containing 0.539 acre of land, more or less.



Engineers — Surveyors — Site Planners

6/28/91 J.O. 91009

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 1-26 Date of Posting: October 23, 1991  
Posted for: Richard Hanna, et ux  
Petitioner: Richard Hanna, et ux  
Location of property: 164 Wesley Avenue, 31' SE from c/l Shipley Road  
Location of Sign: to front of 164 Wesley Avenue  
Remarks: S. J. Hanna  
Posted by: S. J. Hanna  
Number of Signs: 2

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/7/91.

CATONSVILLE TIMES

S. Zeke Orlov  
Publisher

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/18/91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/17/91.

THE JEFFERSONIAN,

S. Zeke Orlov  
Publisher

Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

receipt

Date: Account: R-001-6150  
Number:  
Please Make Checks Payable To: Baltimore County

Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

receipt

Date: 11/6/91 Account: R-001-6150  
Number:  
Please Make Checks Payable To: Baltimore County

111 West Chesapeake Avenue  
Towson, MD 21204

887-4554

DATE: 10-25-91

COPY

Richard and Cynthia Hanna  
1941 Rt. 32  
Spesville, Maryland 21784

RE:  
CASE NUMBER: 92-140-SPH  
W/S Wesley Avenue, 31' (1/-) SE from c/l Shipley Road  
164 Wesley Avenue  
1st Election District - 1st Councilmanic  
Petitioner(s): Richard Hanna, et ux  
HEARING: WEDNESDAY, NOVEMBER 6, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$100.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDERS SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

cc: James D. O'Connor, Esq.

111 West Chesapeake Avenue  
Towson, MD 21204

887-4554

OCTOBER 4, 1991

COPY

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 113, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-140-SPH  
W/S Wesley Avenue, 31' (1/-) SE from c/l Shipley Road  
164 Wesley Avenue  
1st Election District - 1st Councilmanic  
Petitioner(s): Richard Hanna, et ux  
HEARING: WEDNESDAY, NOVEMBER 6, 1991 at 9:00 a.m.

Special Hearing to approve an amendment of the Order in Case No. 69-59-SPH to permit care of 100 children on the subject property.

Variance to permit zero parking spaces in lieu of required 11 parking spaces.

Lawrence E. Schmidt  
Zoning Commissioner of  
Baltimore County

cc: Richard Hanna, et ux  
James D. O'Connor, Esq.

111 West Chesapeake Avenue  
Towson, MD 21204

887-4554

October 29, 1991

James D. O'Connor, Esquire  
100 West Road, Suite 211  
Towson, MD 21204

RE: Item No. 142, Case No. 92-140-A  
Petitioner: Richard Hanna, et ux  
Petition for Special Hearing and  
Variance

Dear Mr. O'Connor:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Zoning Plans Advisory Committee Comments  
Date: October 29, 1991  
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,  
James E. Dyer  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Richard Hanna  
1441 Rt. 32  
Sykesville, MD 21784



Your petition has been received and accepted for filing this  
20th day of September, 1991.

*Arnold Jablon*  
ARNOLD JABLON  
DIRECTOR

Received By:  
*James E. O'Connor*  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Richard Hanna, et ux  
Petitioner's Attorney: James D. O'Connor

BUREAU OF TRAFFIC ENGINEERING  
DEPARTMENT OF PUBLIC WORKS  
BALTIMORE COUNTY, MARYLAND

DATE: October 23, 1991

TO: Mr. Arnold Jablon, Director  
Office of Zoning Administration  
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 8, 1991  
ITEM NUMBER: 142

- 1) An on-site drop-off area should be provided to safely drop off and pick up the children.
- 2) Granting the requested parking variance is going to cause hardship for the adjacent residences.

*Rahee J. Famili*  
Rahee J. Famili  
Traffic Engineer II

RJF/lvd

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management

DATE: October 16, 1991

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Richard Hanna, Item No. 142

Based upon a review of the information provided and an analysis of the site, staff recommends that the petitioner's request be granted for the following reasons:

- There appears to be a more than adequate number of off-site parking available in the community to accommodate existing needs and the additional (4) staff people.
- This particular center has served the community for many years.
- The size of the facility itself will remain unchanged.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/pat  
ITEM142/ZAC1

Baltimore County Government  
Fire Department

700 East Joppa Road Suite 901  
Towson, MD 21204-5500

(301) 887-4500

OCTOBER 16, 1991

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: RICHARD HANNA  
Location: #164 WESLEY AVENUE  
Item No.: 142 Zoning Agenda: OCTOBER 8, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Jeffrey Long* Noted and Approved  
Planning Group 0 Fire Prevention Bureau  
Special Inspection Division

JF/REK

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and Development Management

DATE: October 16, 1991

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting  
for October 8, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 142, 144, 149, 150, 151, 152, 153, 157, and 158.

For Item 145, a minor subdivision is processing now. Our comments will be addressed through that process.

For Item 146, see the County Review Group comments dated August 12, 1991 for this site.

For Item 149, we have no comment on the garage height variance. However, regarding the swimming pool, the road grade or horizontal alignment must be revised so that no retaining wall is needed or that the wall is far enough away from the right-of-way such that failure would not impact the right-of-way.

*Robert W. Bowling*  
ROBERT W. BOWLING, P.E., Chief  
Developers Engineering Division

RWB:s

*Petitioner's*  
PLEASE PRINT CLEARLY  
PROCESSED SIGN-IN SHEET

NAME	ADDRESS
CYNTHIA J. HADDA	1441 RT 32 SYKOWIL 21784
<i>Paul Lee</i>	304 W. PENNA AVE. 41204
JAMES D. O'CONNOR	100 WEST RD STE 211 21204





